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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Ichiro Yamagiwa

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04/28/2009

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EXAMINER

LUKS, JEREMY AUSTIN

ART UNIT

PAPER NUMBER

2837

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,943	Applicant(s) YAMAGIWA ET AL.	
	Examiner JEREMY LUKS	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,6,11 and 15-29 is/are pending in the application.
- 4a) Of the above claim(s) 6,16 and 18-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,11,15 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 11 is objected to because of the following informalities: This claim includes the limitations of a plurality of square **and/or** rectangular shapes. It is unclear if Applicant's is claiming these two limitations in addition to one another, or in the alternative. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5, 11, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashton (4,706,422) in view of Gelin (2003/0070367).

With respect to Claim 1, Ashton teaches a sound absorbing structure (Figure 1) utilizing vibration of a plate-like body (1), comprising: and an installation portion (4, 5) provided against the surface of the plate-like body (1), and wherein the installation portion (4, 5) is lattice-shaped along the surface of the plate-like body (1). Ashton fails to teach a vibration damping member provided on a surface of the plate-like body, a first side of the vibration damping member facing the surface of the plate-like body and an wherein the installation portion is provided at a second side of the vibration damping member, the second side being opposite to the first side of the vibration member,

Art Unit: 2837

wherein the vibration damping member is lattice-shaped along the surface of the plate-like body, and the installation portion has the same shape as the lattice-shaped vibration damping member. Gelin teaches a vibration damping member (Figure 1, #109) (Page 2, [0022]) provided on a surface of a plate-like body (103), a first side of the vibration damping member (109) facing the surface of the plate-like body (103) and wherein an installation portion (101) is provided at a second side of the vibration damping member (109), the second side being opposite to the first side of the vibration member (101) (clearly seen), wherein the installation portion (101) has the same shape as the vibration damping member (109); and wherein the vibration damping member is lattice-shaped (when combined with Ashton) along the surface of the plate-like body (103). Because the vibration damping member (109) of Gelin completely lines the installation portion (101), when combined the damping member (109) of Gelin will completely line the installation portion (4, 5) of Ashton and thus be lattice shaped. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of Ashton, with the apparatus of Gelin to provide a material located between structural wall members that can provide additional substantial sound transmission loss.

With respect to Claim 5, Gelin teaches wherein the vibration damping member (109) is made of an elastic body (Pages 2-3, [0023]).

With respect to Claim 11, Ashton and Gelin teaches wherein the lattice of the lattice-shaped vibration damping member (lattice #4, 5 of Ashton when combined with vibration dampening member #109 of Gelin as detailed above) includes a plurality of

Art Unit: 2837

square and/or rectangular shapes (6). Ashton and Gelin fail to teach the wherein the plurality of square and/or rectangular shapes have different sizes. It would have been an obvious design choice to provide the plurality of square and/or rectangular shapes having different sizes, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

With respect to Claim 15, Ashton teaches wherein the plate-like body (Figure 1, #1) includes a plurality of through holes (2).

With respect to Claim 17, Ashton teaches wherein one or a plurality of other plate-like body(s) (Figure 1, #8) is/are arranged at an opposite side of the plate-like body (1) against the installation portion (4, 5).

Response to Arguments

3. Applicant's arguments with respect to claims 1, 5, 11, 15 and 17 have been considered but are moot in view of the new ground(s) of rejection. The Examiner considers the obvious combination of Ashton and Gelin to teach all of the limitations as claimed by Applicant.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 2837

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEREMY LUKS whose telephone number is (571)272-2707. The examiner can normally be reached on Monday-Thursday 8:30-6:00, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on (571) 272-2227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2837

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeremy Luks/
Examiner, Art Unit 2837

/Jeffrey Donels/
Primary Examiner, Art Unit 2837